IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6876 OF 2007

Yamunabai Bhikan Patil, through her
Special Power of Attorney
Shri Anant Bhikan Bhosale (Patil) : Petitioner
(Orig.Defendant)

V/s.

Ashpaq Ahmad Bashir Ahmad & Ors. : Respondents
(Orig.Plaintiffs)

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Mr.Anilkumar Patil for the petitioner.

Mr.M.B.Shirsath i/b. Mr.M.N.Sandhyanshiv for respondent no.1.

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CORAM : S.A.BOBDE, J.

DATE : OCTOBER 11, 2007.

P.C.

1. Rule, returnable forthwith.

Heard by consent.

2. The petitioner is aggrieved by the rejection of his application for amendment to the Written Statement. The trial Court rejected it on the ground that it is not necessary for determining the real controversy in issue. It is difficult to sustain this reasoning of the trial

Court. The suit is for possession of the tenanted premises. By the proposed amendment, the petitioner sought to bring on record the sale of another plot belonging to him sometime after he had given evidence in the suit. In the circumstances, the amendment is certainly necessary for determining the real controversy between the parties.

3. In the circumstances, the impugned order is set aside. The petitioner’s application for amendment of the Written Statement is allowed. The respondents may apply for appropriate amendment in their pleadings. Further examination of the plaintiffs shall be restricted to the amended portion only. The amendment shall be allowed subject to payment of costs in the sum of Rs.5,000/- to the respondents. The suit is expedited.

4. The Writ Petition stands disposed of.

S.A. BOBDE, J.